

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 15, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of February 15, 2006, was called to order by Mayor Hitchcock at 6:00 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 6:00 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:40 p.m.

NOTE: City Attorney Schwabauer left the meeting at the conclusion of the Closed Session.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Hitchcock reconvened the City Council meeting, and Deputy City Attorney Magdich disclosed that Council adopted a motion to release Raymond Remich from the central plume case and to vacate the trial date. Council authorized that an additional \$25,000 be contributed toward a cost sharing investigation to complete characterization of the northern plume.

NOTE: Mayor Hitchcock announced that Item L-2 would be rescheduled to a future meeting.

A. CALL TO ORDER / ROLL CALL

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Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, Deputy City Attorney Magdich, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Rod Suess, Vinewood Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

- D-3 (a) Joan Morrison with Soroptimist International Sunrise and representatives of Lodi Professional Firefighters presented a check in the amount of \$4,500 to Mayor Hitchcock and Steve Dutra, Parks Superintendent, toward playground equipment at Blakely Park.
- D-3 (b) Mayor Hitchcock presented a Certificate of Recognition to Captain Jim Dodge, former Commander of the Alameda Naval Air Station, in support of the USS Iowa coming to the Port of Stockton as a ceremonial ship. Captain Dodge reported that Lodi is the first of eight local endorsements supporting the application to bring the battleship Iowa to Stockton, which will be presented to the Secretary of the Navy in March. The process is expected to be complete by September. The Port of Stockton has developed a \$33 million package which included 15 acres of land, a 90,000 square foot building, and a half mile of pier space.
- D-3 (c) Rob Lechner, Manager of Customer Services, announced that the Lodi Energy Smart Workshop, focusing on energy conservation, will be held on February 27.

NOTE: Mayor Pro Tempore Johnson presented a book entitled, "*Where the Sidewalk Ends*," to City Manager King. He mentioned that many challenges have taken place during the first year of Mr. King's employment. Mayor Hitchcock noted her appreciation of Mr. King's efforts for the City.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Beckman, Mounce second, unanimously approved the following items hereinafter set forth:

- E-1 Claims were approved in the amount of \$3,343,052.17.
- E-2 The minutes of January 4, 2006 (Regular Meeting) and January 31, 2006 (Shirtsleeve Session) were approved as written.
- E-3 Authorized the Treasurer to enter into agreement with Farmers and Merchants Bank of Central California for the issuance of a City credit card for Electric Utility Director, George Morrow.
- E-4 Approved the plans and specifications and authorized advertisement for bids for White Slough Water Pollution Control Facility Holding Pond No. 1 Rehabilitation, 12751 North Thornton Road.
- E-5 Adopted Resolution No. 2006-25 authorizing the City Manager to execute a Contract Change Order with Western Water Constructors, Inc., of Santa Rosa, for purchase and installation of slide gates and associated work in the head gate structure at the White Slough Water Pollution Control Facility and appropriating \$275,000.
- E-6 Adopted Resolution No. 2006-26 awarding the contract for Elevated Water Tank Recoating Project to Redwood Painting Company, of Pittsburg, in the amount of \$58,840.
- E-7 Adopted Resolution No. 2006-27 authorizing the City Manager to enter into service contract with Delta Wireless, of Stockton, under the terms of the city of Stockton contract, for three years for radio system support service ending August 2009 in the amount of \$23,436 per year.
- E-8 Adopted Resolution No. 2006-28 authorizing the City Manager to allocate two Public Benefit Program rebates to the following commercial/industrial customers for demand-side management projects: Ross Stores, Inc. in the amount of \$15,184.80 and Scientific Specialties, Inc. in the amount of \$25,000.

- E-9 Set public hearing for March 1, 2006, to consider and approve community input and proposals for uses of the City's 2006-07 Federal allocation of Community Development Block Grant and HOME Program funds and the reallocation of available funds from previous program years.
 - E-10 Set public hearing for March 15, 2006, to consider adopting update of Lodi's Urban Water Management Plan.
 - E-11 Re-set public hearing for March 15, 2006, to consider resolution approving new rates for solid waste collection.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Jane Lea reported that she and Dawn Squires filed paperwork to circulate a petition for an initiative to repeal Resolution 2005-203. This action is in response to the "inequitable" decision made by Council to increase water rates despite having received nearly 4,000 written protests. Ms. Lea stated that for 18 years the Council and staff have made costly bad settlements and decisions regarding the groundwater contamination and have always ended up taking money from ratepayers, which is especially burdensome to elderly and low-income members of the community.
- Dawn Squires introduced herself as a proponent of the water rate reduction initiative and stated that she was elderly, disabled, and on a fixed income. She expressed concern about the future and complained of continually increasing rates. Ms. Squires felt that the Council should be of more help to citizens.
- Bill Crow suggested that Council meetings begin an hour earlier and items of most interest to the public be placed at the beginning of the agenda. As an alternative, he suggested that special meetings be scheduled to address popular topics. Mr. Crow felt that Council meetings were too long for the public to participate in.
- Barbara Flockhart commented on the following:
 1. The newspaper recently reported that Lodi developer fees are half of what the city of Tracy charges. She asked Council to consider increasing them, as the funds could go toward building needed fire stations and parks.
 2. She read in the newspaper that the City is paying a \$27,000 fine to the County because it did not file the proper documents related to its underground storage tanks.
 3. She had heard that City management staff was going to be combined and the numbers decreased; however, there is now a vacancy being recruited for Community Center Director at a high salary.
 4. She recalled that the City installed sidewalks for some residents on Turner Road and elsewhere in the City and felt that it should be done for all who need them, rather than requiring some to pay for the installation themselves.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Beckman requested that Council consider agendaizing a special town hall meeting at Hutchins Street Square to discuss alternative ways to pay for groundwater cleanup. He noted that the water rate reduction initiative proponents had initially requested that such a public forum take place to gather ideas about options. Mr. Beckman commented that the process might save the City a costly ballot initiative and asked that the matter be placed on the next agenda for Council consideration.
- Mayor Pro Tempore Johnson asked Mr. Beckman who would "referee" the proposed town hall meeting and how would a consensus be arrived at. He suggested that the logistics be considered at a Shirtsleeve Session so that parameters are established and well understood before the town hall meeting took place. Mr. Johnson noted that the January 17, 2006, Hutchins Street Square Foundation minutes suggested that the maintenance building be

converted into a Hospice facility. He recommended that the matter be discussed by the Council before the Foundation devoted time and effort in the project.

- Council Member Mounce recalled that at the April 26, 2005, Shirtsleeve Session she had requested that a report be provided to Council on the impact of the Police Partner's assistance with code enforcement programs. In addition, there was to be a recommendation from staff regarding code enforcement priorities.
- Council Member Hansen announced that Jacob Inman and others in the community are organizing a youth concert on February 26 called "Fat Sunday" as a fundraiser for Louisiana hurricane victims. The School Street Bistro restaurant is also participating. A meeting with the S.H. Cowell Foundation took place today. The Foundation is considering providing funding for affordable housing projects, youth programs, and a family resource center to be built adjacent to the Lodi Boys and Girls Club.
- Mayor Hitchcock stated that she attended the Seventh Day Adventist Academy and instructed a fifth grade class in what the City Council's role is in the community. She announced that there is a fundraiser challenge between the cities of Lodi and Galt to see which city can collect the most money in donations to help the Lodi Disaster Coalition with expenses to transport a large amount of furniture to Slidell, Louisiana.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King introduced Interim Community Center Director Steve Baker. He commented that by filling the position temporarily it will allow time to evaluate possibilities for department head consolidation for cost savings and improved service delivery. Mr. King stated that his goal is to increase the number of City employees and reduce the number of management staff.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the Planning Commission's recommendation of approval of the request for a Mitigated Negative Declaration, award 65 medium-density Growth Management Allocation units and a Rezone from R-MD, Residential Multi-Family, to PD(38), Planned Development Number 38, for the "Miller Ranch Development Project," a 65-lot medium-density single-family residential subdivision located on the north side of Harney Lane between Panzani Way and Melby Drive (File Nos. ND-05-01, GM05-00, Z-05-04, Jeffrey Kirst on behalf of Tokay Development, applicant).

Deputy City Attorney Magdich explained that some of the decisions to be made under this item are quasi-judicial and due process requires that Council Members disclose any ex parte communications they have had regarding the project.

Charity Wagner, Contract Planner with the firm LSA Associates, reported that Jeffrey Kirst of Tokay Development submitted an application on behalf of the current owners of the property. The Miller Ranch request includes development of 65 single-family homes on the north side of Harney Lane. The request includes the mitigated negative declaration, allocation of 65 medium-density growth management units, and zone change from Residential Multi-Family to Planned Development Number 38. Of the 65 medium allocation units, 45 are available from the 2005 allocations and 20 would be pulled from the previous year's allocations. The site is currently comprised of two single-family homes and agriculture production of flowers and cherry trees. The Planning Commission reviewed this request on January 25 and adopted three resolutions recommending that the Council approve the Miller Ranch project. Staff added two conditions of approval: 1) *Subsequent staff review of above required plans, elevations, fencing, walls, public lane surfaces, etc., shall require payment of fees at the hourly rate of City staff conducting said review; and 2) The applicant shall reimburse the City for the full cost of outside planning consultant fees payable by the City for work performed for review analysis and preparation of reports for the project.*

Ms. Wagner stated that staff prepared an initial Study for this project and found that a mitigated negative declaration was appropriate. A notice of intention to adopt the mitigated negative declaration was processed. The City received comments from the San Joaquin Air Pollution Control District. The District agreed with the City's finding on the air quality, but recommended additional measures, which staff has incorporated into the conditions of approval for the project. Staff from the Public Works Department also commented on the document. The Initial Study determined that no significant impacts would result with the incorporation of the mitigation measures.

Ms. Wagner reviewed the development plan. In accordance with the City's growth management ordinance, staff evaluated this project against the City's point system, and it scored 267 out of 280 possible points. The proposed Planned Development zone would allow for lot sizes ranging from 2,600 to 5,000 square feet. The street design has public lanes, and the development standards would be very similar to The Villa's project to the east.

In response to Mayor Hitchcock, Community Development Director Hatch explained that the zoning is being changed because it allows greater flexibility with regard to set back standards, lot coverage, etc.

Jeffrey Kirst reported that the project was filed in a timely fashion; however, Community Development lost staff and was unable to process it in the usual time period. He noted that the property is surrounded on three sides by residential development. It is the last property in the southwest area of Lodi that is considered priority one. Originally, the property was single-family and City staff changed the designation to medium-density. Staff said it wanted this property to mimic The Villas development. Mr. Kirst recalled that the Council went through a realignment of all the development fees in the last eight months. Due to the loss of staff, the City hired temporary consultants to fulfill its obligation to process projects and now has determined that the developer should pay the additional cost. He pointed out that the consultant hired to do the work was from the Bay Area and required an extraordinary amount of time to get up to speed on the project, which would not have been necessary if Community Development staff had been available. No advance notice was given to the developer about this extra cost.

Council Member Beckman disclosed that he had spoken with Mr. Kirst prior to the public hearing and they discussed what Mr. Kirst just reported on. Mr. Beckman asked if salary costs for staff to process applications is incorporated into the fee amount that developers pay.

Mr. Hatch reported that Mr. Kirst paid his fees in May. On July 1, Community Development fees were increased and incorporated the average cost for staff to process applications. He stated that fees were "averaged down" to stay in comparison with other cities in the county and do not compensate for the fully burdened cost of staff time.

Mr. King stated that there should be full cost recovery for the actual cost incurred in providing services to applicants. He stated that developers have an option to ask for a development agreement that would allow an opportunity to engage in discussion about how to cap fees in exchange for a quid pro quo. Mr. Kirst can review the invoice for work attributable to his project.

Council Member Mounce felt that any development within Lodi should have a component to promote open space and affordable housing and that single-family units should not be exempt. She asked that Council discuss this matter in the future.

Mr. Hatch replied that within the growth management allocation system there are points awarded for affordable housing.

Hearing Opened to the Public

- Barbara Flockhart commented that the streets in the development are so narrow they will not accommodate parking and felt that it would cause problems for surrounding residents.

Ms. Wagner explained that there is space for parking on the east/west street and along the cul-de-sac. There are 39 guest parking spaces provided on the street.

- Terri Sosso stated that Harney Lane was congested already, the school is overcrowded, and this project would worsen the conditions. There are no crosswalks to get to the school, crime is increasing in the area, and cars are speeding through from Harney Lane.

Ms. Wagner replied that individual traffic counts were used with the City's medium-density traffic model. Traffic counts were completed for the project based on the number of trips that the City anticipates per each unit in the designation and the project end results will require dedication of an additional 20 feet for widening of Harney Lane. The environmental document addresses the school impact.

Public Portion of Hearing Closed

MOTION #1 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2006-29 adopting the Mitigated Negative Declaration as adequate environmental documentation for the Miller Ranch Development Project.

MOTION #2 / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously adopted Resolution No. 2006-30 approving the 2006 Growth Management Allocation for the Miller Ranch Subdivision.

MOTION #3 / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously introduced Ordinance No. 1771 amending the Official District Map of the City of Lodi and rezoning 349, 401, and 415 East Harney Lane (APN 062-290-38, 062-290-37, and 062-290-14) from RMD, Residential Medium Density, to PD(38), Planned Development Number 38, for the Miller Ranch Development project, and further approving the associated development plan.

RECESS

At 8:41 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 8:49 p.m.

I. PUBLIC HEARINGS (Continued)

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider introducing ordinance amending Chapter 13.20, "Electrical Service," by amending Sections 13.20.175 Schedule MCA (Market Cost Adjustment), 13.20.190 Schedule EA (Residential Service), 13.20.200 Schedule ED (Residential SHARE Program Service), 13.20.210 Schedule EM (Mobile Home Park Service), 13.20.220 Schedule MR (Residential Medical Rider), 13.20.230 Schedule EL (Outdoor Dusk-to-Dawn Lighting), 13.20.240 Schedule G1 (General Service – Group 1 Commercial/Industrial), 13.20.250 Schedule G2 (General Service – Group 2 Commercial/Industrial), 13.20.260 Schedule G3 (General Service – Group 3 Commercial/Industrial), 13.20.270 Schedule G4 (General Service – Group 4 Commercial/ Industrial), 13.20.280 Schedule G5 (General Service – Group 5

Commercial/Industrial), and 13.20.310 Schedule I-1 (General Service – Group 5 Commercial/Industrial – Optional) relating to rate schedules; adding Section 13.20.235 Schedule ES (City Facilities Service); and repealing Sections 13.20.202 Schedule EE (Residential All Electric) and 13.20.203 and 13.20.204 Schedule EF (Residential All Electric SHARE Program Service).

Electric Utility Director Morrow recalled that on November 16 the City Council approved new Market Cost Adjustments (MCA). Mr. Morrow reviewed rate schedules (all filed). Staff has incorporated the MCA into the base rates and simplified residential discount levels with percentages. The All Electric Rate tariffs have been eliminated, which will result in a 7% change. The MCA was added to the existing per kilowatt rate for commercial customers. The MCA was added to other energy charges within the rates for industrial customers. He provided Council with a corrected schedule I-1 for General Service Group 5, Commercial/Industrial (filed). The mobile home rate is 8.6 cents, before discounts. The average residential rate is 17.3 cents. He suggested that the mobile home rate be reviewed, as well as the qualifications for discount programs. There is a permanent rider in the G5 and I1 rates for an economic development discount, and he recommended that a change be considered so that the discount is highest when initially given and then phased out over time.

In reply to Council Member Hansen, Mr. Morrow stated that counter parties (from which the City buys energy) consider the City's credit worthiness and factor it into the price. In addition, he confirmed that no further rate increases were expected for the remainder of 2006.

In answer to Mayor Hitchcock, Boris Brokop, consultant from the firm Borismetrics, reported that he uses the same model for Lodi as he does for the electric utilities in Glendale and Palo Alto. He explained that most of the operations and maintenance costs are spread back to the customer based on how they use peak power. Costs are allocated based on the amount of capacity customers impose on the distribution system.

Council Member Mounce asked Deputy City Manager Krueger to inform her when the adjustments and credits have been made to customers with the medical rider rate.

Hearing Opened to the Public

- Terry Knutson reported that 1,944 employees work for six large companies in Lodi and, of that amount, 989 live in Lodi. He stated that these jobs will only be secure when there are stable, predictable utility rates that allow businesses to compete on a national basis. These six businesses paid for a study to quantify the economic impact and value of these jobs to the City. He stated that the Council and administration needs to establish and implement policies, commit people, and generate programs that make high-paying job growth a reality and priority. He commented that other states and communities understand the value of jobs and offer huge incentives to get them.
- Michael Locke, President and Chief Executive Officer of the San Joaquin Partnership, stated that copies of the study prepared by Applied Development Economics were previously distributed to Council, staff, and the press. He reported the following information from the study:
 - \$1.1 billion in annual economic value is generated from six businesses in Lodi;
 - The annual payroll is \$97 million;
 - The average salary is \$50,000;
 - Induced impacts raise the economic value to \$1.3 billion and 3,400 jobs, which represent \$147 million in labor income;

- The total job impact in Lodi including direct, indirect, and induced is 1,578 positions, which represents \$67 million in annual labor income;
- The goods and services the 989 employees (who live in Lodi) buy and use is \$14 million annually, equating to 92 jobs and \$4 million in annual labor income;
- The use of disposable income coming from these wages is \$45 million, which creates 500 local serving jobs and an estimated annual labor income of \$15 million;
- The benefit to the municipality of Lodi is \$18 million, of which \$14 million is from utility payments, \$3.9 million in property taxes, and \$76,000 in business licenses.

Mr. Locke reported that the City has lost 1,200 industrial related jobs and 11 businesses have left Lodi. He stated that the City should not exclusively look at Pacific Gas & Electric as its comparative value in terms of the ability to attract and retain businesses.

Public Portion of Hearing Closed

Mayor Hitchcock recalled that when the electric rates were adjusted the utility was still \$2 million under the necessary revenue to cover expenditures. The City reduced the transfer to the General Fund by \$500,000. She hoped that the City and businesses could work together to solve the financial situation of the utility.

In answer to Council Member Hansen, City Manager King reported that, with the current rates, revenue meets expenses and the City can meet the coverage requirements pursuant to its bond indentures. The "ripple effect" will be in the General Fund if the transfer is decreased.

Deputy City Manager Krueger reported that the Electric Utility fund began the year with \$7 million in the bank. The amount projected to be remaining at the end of the fiscal year is \$3 million. He confirmed that there is enough money in the bank to meet the City's obligations based upon the rate increase that was implemented.

Council Member Beckman stated that if the subsidies built into the electric rates were removed he could support the rate "true up."

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Hitchcock second, introduced Ordinance No. 1772 amending Chapter 13.20, "Electrical Service," by amending Sections 13.20.175 Schedule MCA, 13.20.190 Schedule EA, 13.20.200 Schedule ED, 13.20.210 Schedule EM, 13.20.220 Schedule MR, 13.20.230 Schedule EL, 13.20.240 Schedule G1, 13.20.250 Schedule G2, 13.20.260 Schedule G3, 13.20.270 Schedule G4, 13.20.280 Schedule G5, and 13.20.310 Schedule I-1 relating to rate schedules; adding Section 13.20.235 Schedule ES, City Facilities Service, and repealing Sections 13.20.202, 13.20.203, and 13.20.204. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Beckman and Mounce

Absent: Council Members – None

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Mounce, Beckman second, unanimously made the following appointment:

Lodi Planning Commission

Wendel Kiser

Term to expire June 30, 2008

J-3 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through January 31, 2006.

K. REGULAR CALENDAR

- K-1 "Adopt resolution approving amendment to San Joaquin Council of Governments Joint Powers Agreement to add two additional voting members to the Board, one each from the San Joaquin County Board of Supervisors and the city of Stockton"

Public Works Director Prima explained that this request originated because the city of Stockton felt it was underrepresented on the San Joaquin Council of Governments (SJCOG) Board. A compromise was reached, in which Stockton was proposed to receive one more vote and, to balance that, the County was given one more seat on SJCOG.

Andrew Chesley, Executive Director of SJCOG, reported that six jurisdictions have considered this request and all but Ripon voted to approve it. In total, six of 34 City Council Members have voted no. He commented that the SJCOG Board had been considering this matter for over two years before a compromise was reached.

PUBLIC COMMENTS:

- Ron Addington, President of the Business Council; Michael Locke, President and Chief Executive Officer of the San Joaquin Partnership; and Phil Pennino asked for Council's unanimous support of this request.

Council Member Hansen stated that he was in favor of the request from a regional perspective and did not believe it would create an unfair advantage.

MOTION:

Council Member Hansen made a motion, Beckman second, to adopt a resolution approving amendment to San Joaquin Council of Governments Joint Powers Agreement to add two additional voting members to the Board, one each from the San Joaquin County Board of Supervisors and the city of Stockton

DISCUSSION:

Council Member Beckman pointed out that when the County is making improvements just outside the city limits of Lodi it benefits the City's residents. Stockton and Lodi are the only two cities in the north half of the County. For this reason, he saw this proposal as beneficial to Lodi.

Mayor Hitchcock was opposed to the proposal as she felt the current makeup of the SJCOG Board has worked well and saw no reason to change it.

Mayor Pro Tempore Johnson stated that he would vote against the proposal, though he would have supported giving one more seat on the SJCOG Board to the County.

VOTE:

The above motion **failed** by the following vote:

Ayes: Council Members – Beckman and Hansen

Noes: Council Members – Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

- K-2 "Reconsideration of the January 4, 2006, Council action taken regarding the future direction of the Community Separator/Greenbelt Task Force"

MOTION:

Mayor Pro Tempore Johnson made a motion, Beckman second, to reconsider the January 4, 2006, Council action regarding the future direction of the Community Separator/Greenbelt Task Force.

DISCUSSION:

Mayor Hitchcock explained that she would vote no because it is important that the greenbelt matter move forward.

Mayor Pro Tempore Johnson recalled that the action on January 4 included spending \$50,000 to obtain additional economic information. At a recent Greenbelt Task Force meeting, property owners expressed no confidence in the plan the Task Force created and did not submit an alternative. He was opposed to spending any more money on the matter unless there was support and cooperation by others to proceed.

VOTE:

The motion **failed** by the following vote:

Ayes: Council Members – Beckman and Johnson

Noes: Council Members – Hansen, Mounce, and Mayor Hitchcock

Absent: Council Members – None

- K-3 “Adopt resolution adopting and establishing rules for the conduct of meetings, proceedings and business, thereby rescinding Resolution 2004-282”

Deputy City Attorney Magdich explained that legislative decisions are those with broad general applications such as ordinances, zone changes, and general plan amendments. Quasi-judicial decisions are those with specific applications to constitutionally protected property rights, such as the approval of tentative maps, variances, conditional use permits, civil service grievances, California Environmental Quality Act certification, and appeals of administrative action. When acting in a quasi-judicial capacity, one must act in accordance with due process as required under the Fourteenth Amendment. One requirement of due process is that an applicant must be given a meaningful opportunity to be heard. The proposal before Council would require that Council Members who have received ex parte communications, i.e. those which are outside the hearing, disclose those contacts and their context, the facts or information that would be used in making a decision, and give the interested parties full and fair opportunity to relate or explain the information.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously adopted Resolution No. 2006-31 adopting and establishing rules for the conduct of meetings, proceedings and business, thereby rescinding Resolution 2004-282.

- K-4 “Approve revised 2005-06 budget document pages” was ***pulled from the agenda.***

- K-5 “Introduce the following ordinances: a) Amending Lodi Municipal Code Title 17 – Zoning – Chapter 17.57, ‘General Regulations and Exceptions,’ by repealing and re-enacting in its entirety Section 17.57.180 relating to refuse container storage and collection areas and b) Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.16, ‘Solid Waste,’ by repealing and reenacting Section 13.16.050 (A) relating to placement of garbage containers”

Deputy City Attorney Magdich explained that this issue has come forward because some constituents have had problems with uncooperative neighbors with regard to placement of garbage containers. The proposed ordinance amendments would require that garbage

containers be placed along the frontage of customer's property. Violations would be an infraction. There are exceptions made in situations where a property owner cannot place the container in front of their property.

PUBLIC COMMENTS:

- Clare Lima stated that private citizens need guidelines in which to operate and maintain a safe appearance in front of their homes and keep sidewalks free of obstacles. This proposal will provide guidelines which can then be enforced.
- Eileen St. Yves stated that many apartments on the eastside do not have a place to put dumpsters. She asked if they were exempt from being visible from the public right of way, to which Ms. Magdich replied in the affirmative.

Joseph Wood, Community Improvement Manager, noted that dumpsters should be rolled back into their proper location. He acknowledged that if properties were not designed for a large dumpster, often times it is placed in odd locations and rolled into the street.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously introduced Ordinance No. 1773 amending Lodi Municipal Code Title 17 – Zoning – Chapter 17.57, "General Regulations and Exceptions," by repealing and reenacting in its entirety §17.57.180, "Refuse Container Storage and Collection Areas."

MOTION #2 / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously introduced Ordinance No. 1774 amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.16, "Solid Waste," by repealing and reenacting Section 13.16.050 (A) relating to placement of garbage containers.

- K-6 "Review Community Development Block Grant and HOME Program funding that has been allocated to LOEL Foundation"

Joseph Wood, Community Improvement Manager, explained that over the past couple of years the Community Development Department has experienced difficulties and delays in accomplishing some of its responsibilities in a timely manner due to the loss of staff. He reviewed Community Development Block Grant and HOME Program funding that has been allocated to the LOEL Foundation, as outlined in the staff report (filed) and reported on the current status of each.

Council Member Hansen reported that he spoke with a LOEL Foundation board member yesterday who was pleased that processes are now proceeding.

In reply to Mayor Pro Tempore Johnson, Mr. Wood acknowledged that it can be labor intensive to ensure CDBG and HOME program fund recipients follow the appropriate procedures in seeking bids, selecting the contractor, and making sure they understand the prevailing wage requirement, etc.

City Manager King suggested that, as an entitlement City, Lodi could remove itself from the contract with the County of San Joaquin and then have more money for administrative work related to the CDBG and HOME programs. He mentioned that some CDBG recipients have been paid and subsequently the City was notified that there are some disallowed costs. Consequently, staff's approach to ensure there is compliance with regulations has changed and it is causing additional delays.

Council Member Hansen spoke in favor of Mr. King's suggestion.

Council Member Mounce stated that Lodi was understaffed in the Code Enforcement Division of Community Development in comparison to surrounding cities.

MOTION / VOTE:

There was no Council action taken on this matter.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Hitchcock, Johnson second, voted to continue with the remainder of the meeting, with the exception of Items K-4 and L-2, following the 11:00 p.m. hour. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – Beckman

Absent: Council Members – None

RECESS

At 11:05 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 11:20 p.m.

K. REGULAR CALENDAR (Continued)

K-7 “Measure K Renewal Expenditure Plan discussion and direction”

Public Works Director Prima explained that there are four categories of funding in the Measure K renewal expenditure plan:

- 1) Local Street Repair and Roadway Safety – 35% allocation;
- 2) Congestion Relief – 32.5% allocation;
- 3) Rail/Bus/Bicycles – 30% allocation; and
- 4) Railroad Crossing Safety 2.5% allocation.

Andrew Chesley, Executive Director of the San Joaquin Council of Governments, reported that in the earliest versions of the Measure K half cent sales tax renewal expenditure plan the segment from Lower Sacramento Road west to Interstate 5 was a priority for funding. During public discussion, all comments received were related to the segment of Highway 12 west of Interstate 5. Existing conditions on the segment of Route 12 west of Interstate 5 is producing the poorest level of service. He acknowledged that, in the future, both segments will have major capacity problems. For the past seven years, the County of San Joaquin has consistently identified the Highway 12 segment west of Interstate 5 as its highest priority on the state highway system. In April, the SJCOG Board will be asked to adopt a final Measure K renewal expenditure plan that would then go out to the cities and County for their consent and adoption. Mr. Chesley stated that he believed there would be enough money to deliver the projects that are promised to the voters in the expenditure plan.

In response to Mayor Pro Tempore Johnson, Mr. Prima stated that Lodi has received what it has asked for; however, it takes a lot of work with the Transit District who often initially objects to what the City wants.

Council Member Hansen felt that citizens of Lodi would more favorably support the Measure K renewal plan if an underpass on Lodi Avenue was included. He recommended that Lodi's number one priority be the Highway 12 segment from Lower Sacramento Road west to Interstate 5.

In reference to the list of projects under the Congestion Relief category, Mayor Hitchcock felt that the Highway 99/Kettleman Lane interchange was very important. The Highway 99/Harney Lane interchange is growth inducing. Widening Ham Lane from two to four lanes between Lodi Avenue and Elm Street would affect many homes. She recommended that a Shirtsleeve Session be held to further discuss individual projects. She felt it was important to not "oversubscribe" projects in the Measure K renewal plan.

Council concurred that the Highway 12 segment from Lower Sacramento Road west to Interstate 5 be a priority.

MOTION / VOTE:

There was no Council action taken on this matter.

- K-8 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$142,249.57) and approve Special Allocation covering general litigation matter expenses (\$3,176.04)"

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously approved the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$142,249.57 and approved the Special Allocation covering general litigation matter expenses in the amount of \$3,176.04, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount
8001	92662	12/31/05	General Advice/Environmental Matters	\$ 325.00
8002	92660	12/31/05	People v M&P Investments	5,927.79
8003	92663	12/31/05	Hartford Insurance Coverage Litigation	81,925.39
				(1,875.00)
8008	92664	12/31/05	Envision Law Group	29,751.82
				(630.00)
				<u>\$115,425.00</u>

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount
		12/30/05	Peter Krasnoff, Expert	\$ 14,480.00
		Nov-Dec 05	Keith O'Brien, Hydrogeologist	<u>7,505.00</u>
				<u>\$ 21,985.00</u>

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount	Distribution
					<u>100351.7323</u>
					<u>183453.7323</u>
11233.001	223611	01/25/06	General advice	\$ 140.00	\$ 140.00
11233.016	223611	01/25/06	Hartford Litigation	38.00	38.00
11233.026	223611	01/25/06	Lodi First v. City of Lodi	1,915.70	1,915.70
11233.027	223611	01/25/06	Citizens for Open Govt .v City of Lodi	<u>1,120.34</u>	<u>1,120.34</u>
				<u>\$3,214.04</u>	<u>\$3,176.04</u>
					<u>\$ 38.00</u>

JAMS

Invoice No.	Date	Description	Total Amount	Distribution 183453.7323
00001093881-110	2005	Mediation Services (M&P)	\$1,112.75	\$1,112.75
00001075797-110	2005	Mediation Services (M&P)	421.36	421.36
00001069804-110	2005	Credit Memo	(405.44)	(405.44)
TOTAL			\$1,128.67	\$1,128.67

JAMS

Invoice No.	Date	Description	Total Amount	Distribution 183453.7323
00001107903-110	2006	Mediation Services (M&P)	\$ 496.86	\$ 496.86

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1769 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code, Title 12, Chapter 12.12 – Parks – by Adding Article VI, 'Waterfowl and Migratory Birds,'" having been introduced at a regular meeting of the Lodi City Council held January 18, 2006, Council Member Mounce made a motion, Beckman second, to waive reading of the ordinance in full and adopt and order it to print.

DISCUSSION:

Council Member Hansen explained that he would vote against the ordinance because he was not convinced it would solve the problem.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
 Noes: Council Members – Hansen
 Absent: Council Members – None
 Abstain: Council Members – None

- L-2 Ordinance No. 1770 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places – by Adding Chapter 12.03, 'Sidewalks,'" was ***pulled from the agenda***.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:02 a.m., Thursday, February 16, 2006, in memory of 1) Harvey Kessel, who gave 34 years of dedicated service to F&M Bank and was an active community member, who passed away on February 6; and 2) Nancy Hodson Brown, who passed away on February 3, and Jack Hodson, who passed away on February 7, and were the parents of City employees, Jacqueline Taylor and Jeanie Biskup.

ATTEST:

Susan J. Blackston
 City Clerk